



ILLINOIS COMMERCE COMMISSION

March 3, 2005

Riverwoods North Aurora, L.L.C. and Village of North Aurora, Kane County,
Illinois,
Petitioners,

Vs.

Burlington Northern and Santa Fe Railway Company and State of Illinois
Department of Transportation,
Respondents.

T05-0013

Petition for an Order of the Illinois Commerce Commission authorizing the improvement of the existing grade crossing at Riverwoods Lane with the track of the Burlington Northern and Santa Fe Railway Company, in the Village of North Aurora, Kane County, Illinois, directing thereon the installation of automatic protection devices and re-construction of the crossing proper and dividing the cost among the parties herewith.

Mr. Edward P. Graham
Attorney
1112 South Washington, Suite 212
Naperville, IL 60540

Dear Mr. Graham:

Receipt is acknowledged of the original and two (2) copies of the Petition filed March 3, 2005 in the above matter.

All future correspondence/pleadings should be filed with an original and two (2) copies and addressed to: Mr. Dave Lazarides, Acting Director of Processing, Illinois Commerce Commission, 527 East Capitol Avenue, Springfield, IL 62701 or you may file the original electronically through E-docket if you have an account. To apply for an account, please log on to www.icc.state.il.us and apply for an E-docket account.

Processing and Information Section

KI

Cc: Mr. Victor A. Modeer, IDOT
Mr. W. Douglas Werner, BNSF
Mr. Mark Leemon, BNSF
CT Corporation System, BNSF
Village of North Aurora, President/Clerk
Mr. Carl Schoedel, Kane County
Mr. David Faganel, Riverwoods North

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STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

RECEIVED
MAR 3 2005

Illinois Commerce Commission
RAIL SAFETY SECTION

RIVERWOODS NORTH AURORA, L.L.C. and
VILLAGE OF NORTH AURORA, Kane County,
Illinois,

Petitioners

vs.

BURLINGTON NORTHERN AND SANTA FE
RAILWAY COMPANY

and

STATE OF ILLINOIS
DEPARTMENT OF TRANSPORTATION,

Respondents

No. T05-0013

Petition for an Order of the Illinois Commerce Commission authorizing the improvement of the existing grade crossing at Riverwoods Lane with the track of the Burlington Northern and Santa Fe Railway Company, in the Village of North Aurora, Kane County, Illinois, directing thereon the installation of automatic protection devices and re-construction of the crossing proper and dividing the cost among the parties herewith.

PETITION

TO THE ILLINOIS COMMERCE COMMISSION:

Now come Petitioners, RIVERWOODS NORTH AURORA, L.L.C. (hereinafter referred to as the "Riverwoods") and the VILLAGE OF NORTH AURORA, KANE COUNTY, ILLINOIS (hereinafter referred to as the "Village") by Edward P. Graham, their attorney and respectfully petition the Honorable Commission as follows:

1. That the Respondent, Burlington Northern and Santa Fe Railway Company (hereinafter the "BNSF"), in the operation of its facilities has a certain track running in a general North and South direction through the Village which crosses the proposed Riverwoods Lane in the Village (hereinafter "BNSF mainline").

2. That as part of the construction of Riverwoods Lane, Petitioners propose to improve the existing crossing at the BNSF mainline (hereinafter the "crossing"), as more particularly described on the

DOCKETED

MAR 3 2005

map and plan attached hereto as Exhibits A and B respectively which are incorporated herein by reference.

3. That the proposed Riverwoods Lane, on both sides of the crossing of said track of BNSF lies within the corporate limits of the Village.

4. That Riverwoods Lane, from the westerly line of the BNSF right-of-way ("ROW") east to the BNSF/IL Route 25 ROW shall be maintained by and at the expense of the Village of North Aurora and/or the Illinois Department of Transportation. That section of Riverwoods Lane located west of the westerly line of the BNSF ROW shall be maintained by and at the expense of Riverwoods North Aurora, L.L.C.

5. That under the laws of the State of Illinois, through the Illinois Highway Code, the Village has jurisdiction over Riverwoods Lane on the east side of the crossing, which will carry local, primarily residential traffic across the BNSF mainline in an east-west direction generally between State Routes 56 (to the west) and 25 (to the east).

6. That Riverwoods Lane, east of Route 56 and west of Route 25, shall be constructed during the calendar year 2005 as a two-lane curb and gutter roadway with a 3-foot center median consisting of bituminous concrete surface.

7. That the construction of Riverwoods Lane is vitally needed to (a) accommodate the projected moderate volume of vehicular traffic anticipated to be generated by the North Aurora Riverfront Townhome Development, currently under various stages of construction; (b) to allow secondary access through the development for municipal officials, employees and public safety officers, specifically providing an alternative entrance and exit for police officers entering and leaving the police department; and (c) is necessary for the safety, convenience and security of the traveling public.

8. That railroad traffic on the BNSF's mainline is freight of low volume operating at low speeds during hours of daylight and darkness.

9. That the installation of automatic and positive control protective devices at the aforesaid crossing is necessary in the interest of public safety; that the automatic flashing lights, signals and gates

are appropriate as protective devices; that a precast concrete surface crossing at the tracks of the BNSF as described herein, will best serve the anticipated uses of the crossing by highway traffic; and the cost thereof should be reasonably apportioned between the parties in accordance with the law.

WHEREFORE, Petitioners pray that the Honorable Commission will set the aforesaid matter for hearing with notice to the Parties hereto, and after such hearing enter an Order:

1. Authorizing the improvement of an existing grade crossing at Riverwoods Lane with the mainline track of the Burlington Northern Santa Fe Railway Company as shown on the map and plan attached hereto.

2. Directing the Respondent to install and thereafter maintain and operate the system of automatic protection devices conforming with the provisions of 92 Illinois Administrative Code, Part 1535, and as amended, at said crossing.

3. Directing the Respondent to install and maintain a precast concrete surface grade crossing at said track.

4. Dividing the cost involved among the parties in accordance with the law.

5. Directing that all of the above acts be contingent upon the opening and construction of the new Riverwoods Lane from State Route 56 to State Route 25; to be accomplished in such order and manner as not to obstruct the free movement of vehicular traffic across said track.

6. Petitioners further specially request that all necessary steps be taken by the Honorable Commission to expedite, accelerate and advance upon its docket for immediate consideration, the matter of this Petition.

DATED at Naperville, Illinois this 18 day of February, 2005.

Respectfully submitted,

RIVERWOODS NORTH AURORA, L.L.C.

Edward P. Graham
BY: EDWARD P. GRAHAM, One of its Attorneys

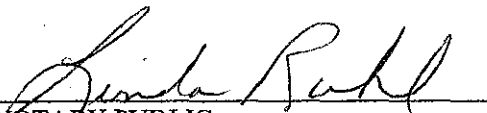
STATE OF ILLINOIS)
)
COUNTY OF KANE)

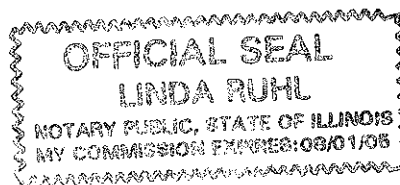
VERIFICATION

I, SUE MCLAUGHLIN, being duly sworn upon oath depose and say that I am the Village Administrator for the Village of North Aurora, Kane County, Illinois; that I have read the foregoing Petition by me subscribed and know the contents there of; that said contents are true in substance and in fact.


SUE MCLAUGHLIN

SUBSCRIBED AND SWORN TO me this 14 day of February 2005.


NOTARY PUBLIC



STATE OF ILLINOIS)
)
COUNTY OF DUPAGE)

VERIFICATION

I, DAVID J. FAGANEL, being duly sworn upon oath depose and say that I am the President of R. A. Fagenel Builders, Inc., Manager of Riverwoods North Aurora, L.L.C.; that I have read the foregoing Petition by me subscribed and know the contents there of; that said contents are true in substance and in fact.

David J. Fagenel
DAVID J. FAGANEL

SUBSCRIBED AND SWORN TO me this 15th day of February, 2005.

Donna Knops
NOTARY PUBLIC



STATE OF ILLINOIS)
COUNTY OF DUPAGE)

PROOF OF SERVICE

I, Dayna R. Salzman, hereby certify that I have served true and correct copies of the foregoing petition to the following, by depositing them in envelopes properly stamped and addressed in the United States Mail in Naperville, Illinois on the 28th day of February, 2005.

Mr. James L. Easterly, Director
Illinois Department of Transportation
Division of Highways
Secretary of Transportation
2300 South Dirksen Parkway
Springfield, IL 62764

and

Mr. David Lazarides
Director of Processing and Information
Transportation Division
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, Illinois 62701

and

Ms. Patricia J. Casler
Burlington Northern and Santa Fe Railway Company
547 W. Jackson Boulevard
Chicago, Illinois 60661

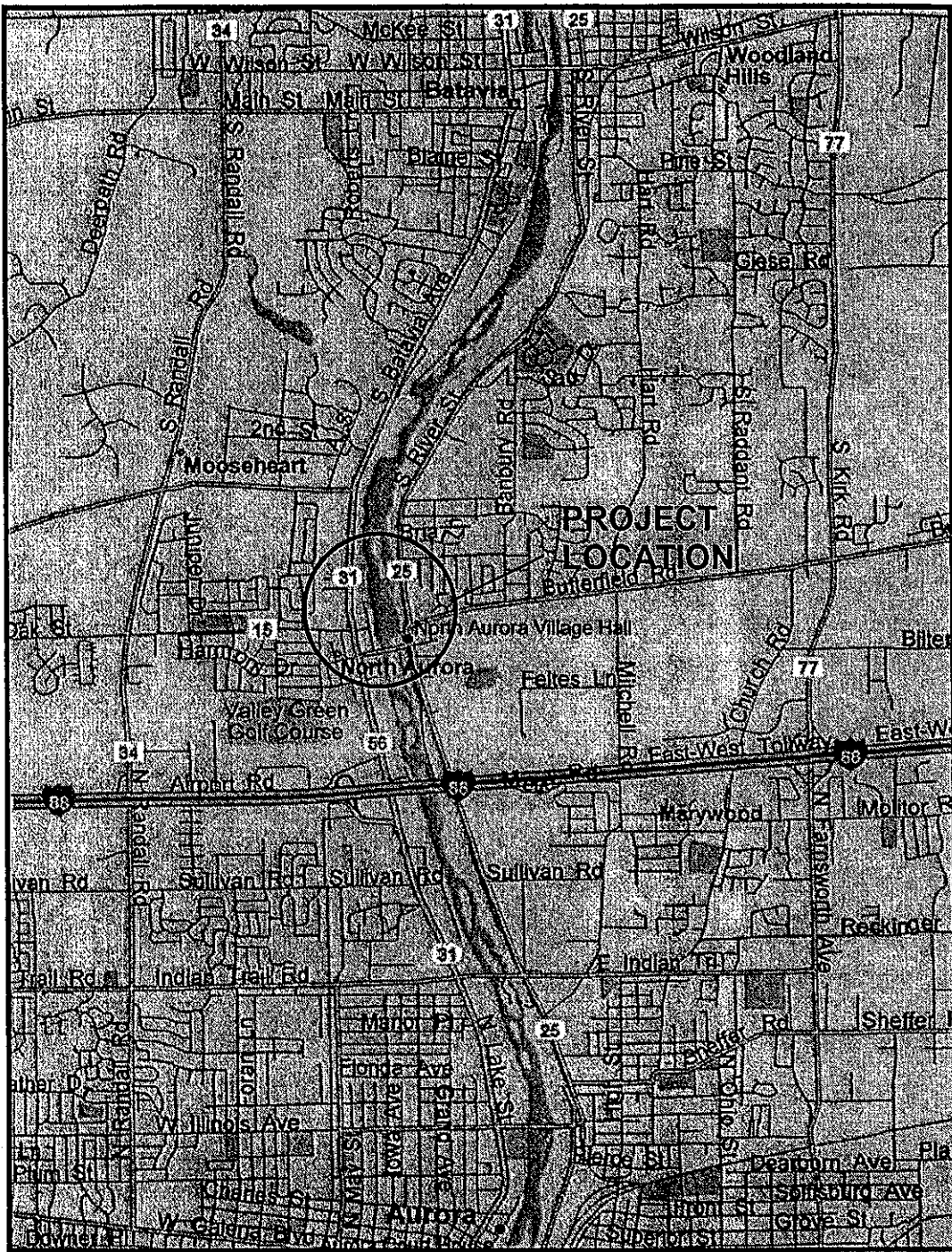
Dayna R. Salzman

SUBSCRIBED AND SWORN to before me this 28th day of February, 2005.

Melissa Adele Grahonya
NOTARY PUBLIC



LOCATION MAP



D.R. SPERRY & CO.
RIVERWOODS DEVELOPMENT
NORTH AURORA, ILLINOIS
3/8/04

PATRICK
ENGINEERING INC.



IL ROUTE 25 ROW

IL ROUTE 25

PROPOSED FLASHING
LIGHTS AND GATE

BNSF RAILROAD
WEST CHICAGO LINE

← TO WEST CHICAGO

PROPOSED 48'
PUBLIC CROSSING

12.0'

24.0'

PUBLIC STREET

BNSF/IL ROUTE 25 ROW

EXISTING PRIVATE
TIMBER CROSSING

TO AURORA →

BNSF ROW

PRIVATE STREET

RIVERWOODS LANE

27.00'

3.0'

A=71.44' R=188.88'

19.31'

A=61.49'

A=105.88' R=86.58'

A=44.22'

48.49'

A=22.281' R=22.28'



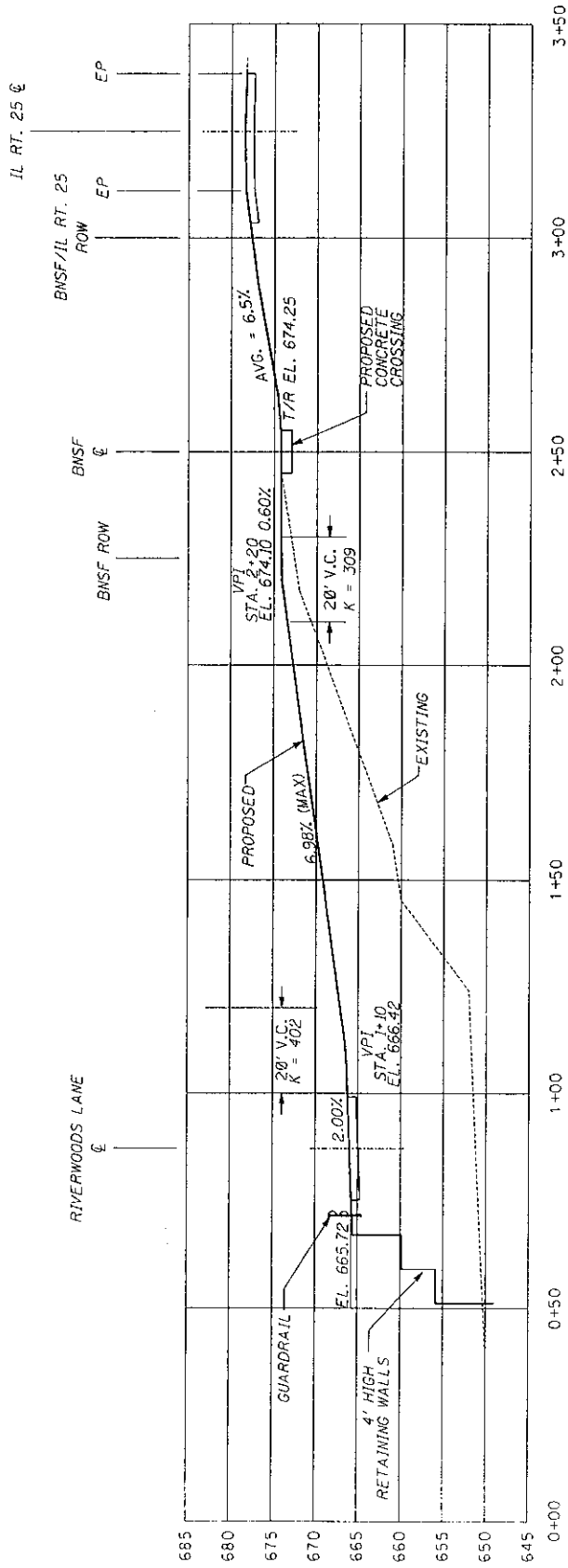
SCALE: 1" = 40'

PATRICK
ENGINEERING INC.

RIVER WOODS NORTH
AURORA LLC
RIVER WOODS
DEVELOPMENT

RIVERWOODS LANE
BNSF CROSSING
GENERAL PLAN

DRAWING NO. 9553.A0-1



PATRICK
ENGINEERING INC.

RIVER WOODS NORTH AURORA LLC
RIVER WOODS
DEVELOPMENT

RIVERWOODS LANE
BNSF CROSSING
ROAD PROFILE

DRAWING NO. 9553.A0-2